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CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY ml DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

STEVE OLSON,  
F-94889,

Plaintiff,

vs.

CDCR; SCOTT SAGE; TERESA MILLER,

Defendants.

Civil No. 12cv1502 BEN (BLM)

**ORDER DISMISSING CIVIL  
ACTION WITHOUT PREJUDICE  
FOR FAILING TO PAY FILING  
FEE REQUIRED BY 28 U.S.C.  
§ 1914(a) AND/OR FAILING TO  
MOVE TO PROCEED *IN FORMA*  
*PAUPERIS* PURSUANT TO  
28 U.S.C. § 1915(a)**

Plaintiff, currently detained at George Bailey Detention Facility located in San Diego, California, and proceeding pro se, has filed this civil rights action pursuant to 42 U.S.C. § 1983.

**I. Failure to Pay Filing Fee or Request IFP Status**

All parties instituting any civil action, suit or proceeding in any district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$350. *See* 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay this filing fee only if the party is granted leave to proceed *in forma pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999).

Because Plaintiff has neither prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a) to commence a civil action nor filed a Motion to Proceed *In Forma Pauperis* ("IFP") pursuant

1 to 28 U.S.C. § 1915(a), this action must be dismissed pursuant to 28 U.S.C. § 1914(a).  
2 *Rodriguez*, 169 F.3d at 1177.

3 **II. Conclusion and Order**

4 For the reasons set forth above, the Court hereby:

5 (1) **DISMISSES** this action sua sponte without prejudice for failing to pay the \$350  
6 filing fee or file a Motion to Proceed IFP pursuant to 28 U.S.C. §§ 1914(a) and 1915(a); and

7 (2) **GRANTS** Plaintiff **forty five (45)** days leave from the date this Order is filed to:  
8 (a) prepay the entire \$350 civil filing fee in full; *or* (b) complete and file a Motion to Proceed  
9 IFP which includes a certified copy of his trust account statement for the 6-month period  
10 preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2); S.D. CAL. CIV. L.R. 3.2(b).

11 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff with this  
12 Court's approved form "Motion and Declaration in Support of Motion to Proceed *In Forma*  
13 *Pauperis*." If Plaintiff fails to either prepay the \$350 civil filing fee or complete and submit the  
14 enclosed Motion to Proceed IFP within that time, this action shall remain dismissed without  
15 prejudice and without further Order of the Court.

16  
17 DATED: 6/21/12

  
18 HON. ROGER T. BENITEZ  
19 United States District Judge  
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